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**From:**

**Sent:** Wednesday, March 24, 2010 3:05:02 PM

**To:**

**Cc:**

**Subject:** Question re Affected Item

The contribution amount is a partnership item under Treas. Reg. 301.6231(a)(3)-1(a)(4)(i) and (c)(2); *American Boat Co. v. United States*, 583 F.3d 471, 474 n.1, 480 (7th Cir. 2009); [Nussdorf v. Commissioner](#), -- T.C. -- (2008). In the absence of a TEFRA proceeding to change the amount of the contribution, we will be bound by the amount of the contribution reflected on the partnership return and books and records, with respect to any assessments against the direct and indirect partners. The adjustment to the amount of the contribution determined in the TEFRA proceeding affects the amount of excise tax that we can assess against the direct and indirect partners. Thus, the excise tax is an affected item that cannot be determined prior to the conclusion of the TEFRA proceeding under [GAF v. Commissioner](#), 114 T.C. 519 (2000).

